

**HB 2079 - S AMD 497**

By Senator Holmquist

**NOT ADOPTED 4/13/2007**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. Sec. 1. The legislature finds that confusion exists  
4 regarding the rights and protections afforded to those paying agency  
5 shop fees and intends to clarify those rights by specifying limits on  
6 the uses of agency fees. The legislature further finds that the  
7 extraordinary power to compel payment for services is a power normally  
8 reserved only to public entities, and that its extension to private  
9 entities with nonpublic interests including campaign activities must be  
10 restricted to the purposes justifying its authorization by law. The  
11 legislature further finds that the United States constitutional  
12 protection against compelled speech preempts any statutory grant of  
13 power to compel payment for collective bargaining services, and  
14 interpretations of state law must always put protection from compelled  
15 speech before labor organization convenience. The legislature further  
16 finds that many labor organizations operate without relying on  
17 mandatory fees, and the inclusion of such mandatory fees in bargaining  
18 agreements and their protection under law is not necessary for the  
19 interests and rights of labor organizations. The legislature further  
20 finds that generally accepted accounting principles consider commingled  
21 funds to be from all sources, and that only a complete refund of agency  
22 fees would satisfy the requirements of the citizens' Initiative Measure  
23 No. 134.

24 **Sec. 2.** RCW 42.17.760 and 1993 c 2 s 16 are each amended to read  
25 as follows:

26 (1) A labor organization may not use agency shop fees paid by an  
27 individual who is not a member of the organization to make  
28 contributions or expenditures to influence an election or to operate a  
29 political committee, unless affirmatively authorized by the individual.

30 (2) Subject to other provisions of this chapter, labor  
31 organizations may use any fund or account from which payments or  
32 expenditures are made, and where agency shop fees are commingled, to

1 make contributions or expenditures to influence an election or operate  
2 a political committee if all agency shop fees collected in the twelve  
3 months prior to the contribution or expenditure are returned to those  
4 who paid fees and did not affirmatively authorize these uses.

5 (3) For the purpose of this section:

6 (a) "Agency shop fees" means any funds received from someone who  
7 has not affirmatively joined a labor organization but supplied those  
8 funds pursuant to a collective bargaining agreement;

9 (b) "Affirmatively authorized" means that the agency fee payer  
10 signed a declaration within the twelve months prior to the expenditure  
11 indicating consent to use of the fees to influence an election;

12 (c) "Use agency shop fees" means to make any expenditure from  
13 agency shop fees or any funds commingled with agency shop fees  
14 including general treasury funds; and

15 (d) "Expenditures to influence an election" includes but is not  
16 limited to expenditures on staff who have duties including activities  
17 to affect elections or train other staff or volunteers to affect  
18 elections, expenditures on communication efforts internally or  
19 externally to advance or oppose one or more candidates or ballot  
20 measures, expenditures to identify voter preferences, expenditures to  
21 aid in voter turnout, expenditures on staff to aid in recruiting or  
22 training candidates, expenditures on staff or materials to prepare  
23 ballot measures or recall efforts, expenditures on staff or legal  
24 services to contest election results, and donations of funds to  
25 organizations or individuals who make expenditures to influence an  
26 election."

27 Renumber the sections consecutively and correct any internal  
28 references accordingly.

29

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4 On page 1, line 1 of the title, after "fees;", strike the remainder  
5 of the title and insert "amending RCW 42.17.760; and creating a new  
6 section."

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**EFFECT:** The amendment provides legislative findings that intend to specify limits on the use of agency shop fees. Allows labor organizations to use any fund or account from which payments or expenditures are made, and where agency shop fees are commingled, to make political campaign contributions, but only if all agency shop fees collected in the twelve months prior to the contribution have been refunded in full to those who did not affirmatively authorize such use.

Provides definitions for: "agency shop fees"; "affirmatively authorized"; "use of agency shop fees"; and "expenditures to influence an election".